

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 5, 2004

DIVISION ONE

B151259 Gupta et al.
 v.
 Shue et al.

(Not for Publication)

That portion of the judgment in favor of the Shue's on the first cause of action of Gupta's first amended complaint is reversed. On remand, the trial court is directed to vacate that portion of the judgment and enter judgment for Gupta instead.

In light of our decision to reverse a portion of the judgment, we further reverse the trial court's finding that the interveners are the prevailing parties and its order awarding interveners attorney's fees. On remand, the trial court is to consider anew the interveners' motion for attorney's fees. The trial court is first to determine who the prevailing party or parties on the contract are, if any. The court's ruling should contain a detailed finding as to why there is or is not a prevailing party. In the event the court determines there is a prevailing party and that an award of attorney's fees is appropriate, the court is to specify the contract or contracts upon which its award of attorney's fees is based. When awarding attorney's fees, the court is to allocate attorney's fees between contract and non-contract claims or explain why such allocation is not required. Finally, the trial court is to consider carefully the amount of fees requested in relationship to the relief gained so as to ensure that any award of fees is not excessive.

In all other respects, the judgment is affirmed. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

August 5, 2004 (Continued)

DIVISION ONE (Continued)

B159163 Stasz (Certified for Partial Publication)
v.
Schwab et al.

The judgment in appeal No. B163456 and the orders in appeals Nos. B159163 and B162829 are affirmed.

Mallano, J.

We concur: Spencer, P.J.
Hastings, J., J. (Assigned)

DIVISION TWO

B167757 Capital Salvage et al. (Not for Publication)
v.
Chicago Title Company

The judgment of the trial court is affirmed. Chicago Title is entitled to costs on appeal.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION FIVE

B171941 Jacqueline Singleterry (Not for Publication)
v.
Southern California Water Company

The order is affirmed. The parties are to bear their own costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

August 5, 2004 (Continued)

DIVISION FIVE (Continued)

B169770 Peter Nava (Not for Publication)
v.
City of Alhambra et al.

The judgment is affirmed. Nava is to pay the costs of the Department and Lewis on appeal.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B170387 Mary Jo Casino (Not for Publication)
v.
Dona LaFrance, as Administrator etc.
Estate of Ellen H. Anderson

The November 13, 2003 order vacating the final order of distribution in the estate of Ellen H. Anderson is affirmed. Petitioner, Mary Jo Casino, is to recover her costs on appeal from the objector, Dona LaFrance.

Turner, P.J.

We concur: Grignon, J.
Mosk, J.

B175162 Brenda A. (Not for Publication)
v.
Superior Court, Los Angeles County
(DCFS, r.p.i.)

The petition is denied.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

August 5, 2004 (Continued)

DIVISION FIVE (Continued)

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The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B173414 People (Not for Publication)
v.
Donald Serrato

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B170938 People (Not for Publication)
v.
Edgar G.

The matter is remanded to the juvenile court for an express declaration pursuant to Welfare and Institutions Code section 702, possible recalculation of the maximum period of physical confinement, and further proceedings consistent with the opinion. In all other respects, the judgment (order of wardship) is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

August 5, 2004 (Continued)

DIVISION FIVE (Continued)

B170724 People (Not for Publication)
v.
Alton Garrett

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

B173433 People (Not for Publication)
v.
Carlos Marquez

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B167614 People (Not for Publication)
v.
Gonzalo Navarro, Jr.

The judgment is affirmed as modified. The sentence is modified to reflect the imposition of a 25-years-to-life sentence under Penal Code section 12022.53, subdivision (d).

Mosk, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

August 5, 2004 (Continued)

DIVISION FIVE (Continued)

B170816 People (Not for Publication)
v.
Nathaniel Ruffin

The judgment is affirmed.

Mosk, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

B171779 People (Not for Publication)
v.
Tylisa Williams

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION SIX

B157490 Felgenhauer (Certified for Partial Publication)
v.
Soni

The judgment is affirmed. The parties are to bear their own costs.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

August 5, 2004 (Continued)

DIVISION SIX (Continued)

B167522 People (Not for Publication)
v.
Hicks

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

B169750 People
v.
Arnold

Filed order granting petition for rehearing.

DIVISION SEVEN

Court convened at 9:00 a.m.

Present: Perluss, P.J., Johnson, J., Zelon, J. and Eva McClintock, Deputy Clerk.

Each of the following:

B163479 People v. Kistner
B164700 People v. Cross
B166883 People v. Saucedo
B168251 People v. Benton
B171258 People v. Hernandez
B171355 People v. Erick R.
B171720 People v. Argo
B171960 People v. Thomas
B172185 People v. Ismael R.

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B171502 People
 v.
 Morrison

Merits:

Argued by Murray Rosenberg for appellant and by Louis Karlin, Deputy Attorney General for respondent. Parties stipulated to Justice Woods' participation by listening to a recording of oral argument. Cause submitted.

B167166 People
 v.
 Ware

Merits:

Argued by Maxine Weksler for appellant and by Herbert Tetef, Deputy Attorney General for respondent. Parties stipulated to Justice Woods' participation by listening to a recording of oral argument. Cause submitted.

Court recessed at 9:28 a.m.

Court reconvened at 10:00 a.m.

Present: Perluss, P.J., Johnson, J., Zelon, J. and Eva McClintock, Deputy Clerk.

B165521 Cannon
 v.
 Burkle

Merits:

Argued by Stuart Esner for appellant and by Stacie MacDonald for respondent. Cause submitted.

Court recessed at 10:17 a.m.

Court reconvened at 1:30 p.m.

Present: Perluss, P.J., Johnson, J., Zelon, J. and Eva McClintock, Deputy Clerk.

DIVISION SEVEN (Continued)

B165008 Hallstrom
 v.
 TPIR, LLC et al.,
 Bob Barker

Merits:

Argued by Nick Alden for appellant and by Jeffrey Berman, James Harris and Sean Riley for respondents. Parties stipulated to Justice Woods' participation by listening to a recording of oral argument. Cause submitted.

B166654 Shafighi et al.
 v.
 Lai

Merits:

Argued by Jay Saltsman for appellant and by David Seeley for respondents. Cause submitted.

B166408 Morin et al.
 v.
 Rosenthal et al.,
 Pyfrom et al.

Merits:

Argued by Arnold Gross and Hall Marston for appellants and by John Fuchs for respondents. Parties stipulated to Justice Woods' participation by listening to a recording of oral argument. Cause submitted.

Court adjourned at 2:58 p.m.

DIVISION EIGHT

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The judgment is affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Boland, J.

B166449 Roshan (Not for Publication)
v.
Engstrom, Lipscomb & Lack et al.

The judgment is reversed and the case is remanded with directions to overrule the demurrer to the third cause of action of the first amended complaint. The orders sustaining the demurrers to the second, fourth and fifth causes of action without leave to amend are affirmed. The order granting summary judgment on the first cause of actions is treated as an order granting summary adjudication on that cause of action and as such is affirmed. The case is remanded for further proceedings consistent with this opinion. The parties are to bear their own costs on appeal.

Flier, J.

We concur: Cooper, P.J.
Boland, J.

B175183 Carmen Estrada-Schaye
v.
Los Angeles Community College District

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed May 3, 2004) dismissed.

DIVISION EIGHT (Continued)

B168872 Estate of Lilian Gertrude Baynard, Deceased. (Not for Publication)
 Zysensky
 v.
 Zysensky et al.

The judgment is affirmed. Respondent(s) to recover costs.

Flier, J.

We concur: Rubin, Acting P.J.
 Boland, J.

B165832 Western Summit Manufacturing Company (Not for Publication)
 v.
 Pavlo, Weinberg & Associates et al.

The judgment is reversed. The case is remanded with directions: (a) to vacate the orders sustaining the demurrers to the second amended complaint; (b) to enter orders overruling those demurrers; and (c) for further proceedings consistent with this opinion. Respondents are to recover their costs on appeal.

Flier, J.

We concur: Cooper, P.J.
 Rubin, J.

B165236 Sequoia Concepts, Inc. (Not for Publication)
 v.
 Steele

The judgment is affirmed. The parties are to bear their own costs on appeal.

Flier, J.

We concur: Cooper, P.J.
 Rubin, J.